

**Board of County Commissioners
Leon County, Florida**

**Workshop on
Options for Amending the Regulations
Governing Policy 2.1.9 and Limited Partition
Subdivisions**

**1:30 – 3:00 p.m.
Tuesday, July 10, 2007**

**Leon County Board of County Commissioner Chambers
Leon County Courthouse, 5th Floor**

This document distributed: July 6, 2007

Board of County Commissioners

Workshop Item

Date of Meeting: July 10, 2007

Date Submitted: July 6, 2007

To: Honorable Chairman and Members of the Board

From: Parwez Alam, County Administrator
Vincent Long, Assistant County Administrator
Wayne Tedder, Planning Department Director
David McDevitt, Growth and Environmental Management Director

Subject: Conduct a Workshop Regarding Options for Amending the Regulations
Governing Policy 2.1.9 and Limited Partition Subdivisions

Statement of Issue:

This is a request to conduct a workshop regarding the options for amending the regulations governing Policy 2.1.9 and limited partition subdivisions.

Background:

On April 10, 2007, the Board conducted a workshop evaluating increased densities within the Rural Land Use Map category located within District One. During the workshop staff provided a power point presentation that identified major issues for consideration in evaluating changing the densities within the Rural Land Use Category located within District One from one unit per ten acres to one unit per three acres. Following this presentation, Board discussion followed and additional discussion occurred regarding the Policy 2.1.9 subdivision requirements. The Board directed staff to review the Policy 2.1.9 subdivision requirements on a County-wide basis and bring back options for amendment to these requirements. At the May 22, 2007 regular Board meeting, staff presented an agenda item containing options for amendment to the regulations governing Policy 2.1.9 subdivisions. At that time, the Board requested a workshop on the proposed Policy 2.1.9 changes and including possible changes to remedy improper subdivisions. The following summarizes the current regulations regarding Policy 2.1.9 subdivisions and explains improper subdivisions in detail. The current regulations regarding Limited Partition are also explained since amendments to these regulations are also proposed herein.

Policy 2.1.9 Subdivisions in General

At present, Policy 2.1.9 of the Comprehensive Plan Land Use Element allows for the subdivision of property at a maximum density of two dwelling units per acre up to a maximum of six units within the following Land Use Map categories:

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- Rural;
- Urban Fringe;
- Lake Talquin Recreation/Urban Fringe, and;
- Residential Preservation Overlay applied over one of the three previous categories located outside of the Urban Services Area.

The full text of this Policy applicable to the County is as follows:

"Policy 2.1.9: [L] (Leon County) (Rev. Effective 4/18/02)

To avoid a disproportionate impact on owners of small parcels of property, each parcel of property in single ownership as of February 1, 1990, in the Urban Fringe, and Rural and Lake Talquin Recreation/Urban Fringe areas may be developed at a maximum density of two units per acre, for the first six dwelling units on such parcel, including existing dwelling units. Property owners who are not able to use the above provision because of date of ownership/acquisition, or if the provision would not allow for an adequate number of lots for a property owner who wishes to subdivide a parcel for family members, may convey a portion of that property to their heirs (as defined by Chapter 163.3179, F.S.) for the sole purpose as a homestead, notwithstanding the density or intensity of use assigned to the parcel in the plan.

Either provision may apply only once to any individual, and may not be used in combination. Any parcel created through use of the non-heir provision of this policy shall not be further divided using the heir provision. Neither provision may be used to create a lot which is smaller than 1/2 acre in size."

This Policy, is implemented within the Land Development Code, and allows for both family heir and non-family heir subdivisions, however the requirements for each type of Policy 2.1.9 Subdivisions are different. The Land Development Code also contains some provision for platted unrecorded subdivisions that seek to ensure compatibility with surrounding lots. Another requirement stipulates that newly created parcels within platted unrecorded subdivisions must be a minimum of four acres in size.

The Code provides for a limited review process, allowing the County Administrator or designee the ability to approve Policy 2.1.9 subdivision applications unless they are located along a canopy road, in which case a full Type B site and development plan is required.

The following explains the key difference between family heir and non-family heir subdivisions as well as how they are treated when used together:

□ ***Non-Family Heir Policy 2.1.9 Provisions***

If the Policy 2.1.9 subdivision is for unrelated individuals (non-family heir), it applies only once to a parcel that has been held in fee simple title and has been in single ownership since February 1, 1990.

□ ***Family Heir Policy 2.1.9 Subdivisions***

For property owners desiring to divide property among family members (family heir), the property does not have to be one that has been held in fee simple title and in single ownership since February 1, 1990.

□ ***Using Family and Non-Family Heir Subdivisions Simultaneously is Currently Prohibited***

If the non-family related 2.1.9 provision was already utilized previously the family heir provision cannot be invoked on the previously created parcels. This particular requirement - not being able to apply both the standard non-family heir 2.1.9 process and the family heir 2.1.9 provisions to the same parcel - is also within the Comprehensive Plan. This means that if a property owner has already divided property and sold it to unrelated individual(s), they cannot again divide any of those new parcels and give or sell parcels to a family member.

Nonconforming and Improper Subdivisions

Non-conforming subdivisions are those that were created prior to the density regulations imposed by the Comprehensive Plan. Improper subdivisions are those that were created after the Comprehensive Plan went into effect and do not meet the density and or lot size requirements of the current Comprehensive Plan and Land Development Code. Improper subdivisions are created through two basic mechanisms. The first and most common mechanism is when an individual property owner records deeds for newly created lots at the Clerk of Courts offices without benefit of any review for consistency with the current Comprehensive Plan or Land Development Code. In effect, these lots are just created but may not be in compliance with the applicable zoning regulations, specifically the required densities and lot sizes. An individual property owner can indeed divide his or her property in any manner desired, however, doing so does not guarantee a building permit and in some cases may even result in the loss of some vested rights or non-conforming status. Individuals record new lots for various reasons and not all of them include the ability to construct a new home. The second and less prevalent mechanism for the creation on improper subdivisions is through some sort of court action ordering the division of property.

Pursuant to the Section 10-1407 of the Leon County Land Development Code, no subdivision of any land may be effected nor shall any person undertake the development of any parcel in unincorporated Leon County except in conformity and strict accordance with the subdivision and site and development plan regulations of Leon County and applicable Florida Statutes. In addition, Section

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10-1409 states that no building permit, certificate of occupancy, certificate of completion, connection permit, or environmental management permit shall be issued for any structure or development on any parcel or lot undertaken in violation of Leon County Land Development Code. The act of recording deeds for lots in the Clerk of Courts office does not constitute compliance with nor substitute for the requirements for the subdivision of land set out in the Leon County Land Development Code.

Despite these regulatory barriers, it is estimated that there have been approximately 750 to over one thousand improperly subdivided lots created within unincorporated Leon County since October, 1990, when land development regulations intended to implement the recently adopted Comprehensive Plan and regulate subdivision went into effect. Based upon staff's interaction with affected persons, the practice of improper subdivision continues at an undiminished rate.

In many cases, improper subdivision results from transfer of property via deed to family members, often in wills and probate, and it would appear to be more the result of a combination of a family tradition of giving property to future generations and lack of awareness of the County's mandatory requirements for subdivision of land. In other instances, staff has clearly observed a pattern of abuse by persons made aware of the requirements for subdivision. Regardless, all improper subdivisions are treated equally and require rectification so that the resulting subdivision is consistent with the Comprehensive Plan and in compliance with the Land Development Code.

It should be noted that County Growth and Environmental Management has placed written notices in the Clerk of Court's office warning against such transfers stating that such transfer does not indicate compliance with the current Comprehensive Plan or Land Development Code and therefore may not result in the issuance of a building permit. This practice should be strengthened and continued so that individuals desiring to subdivide their property are properly noticed.

Current Relief for Non-Conforming Subdivisions Created Prior to the Adoption of the Comprehensive Plan

The Code does currently provide some relief to individuals who had recorded non-conforming subdivisions prior to the adoption of the Comprehensive Plan. Non-Conforming Subdivisions are those created prior to the adoption of the Comprehensive Plan and are treated similar to non-conforming uses. Sec. 10-1452, states that all single-family lots created by recorded transfers of title recorded on or before October 31, 1990, at 11:59 p.m., shall be deemed non-conforming within the meaning of the comprehensive plan and thus shall be excepted from the requirements for subdivision review. Such single-family lots are exempt from the residential density limitations imposed by the comprehensive plan. These lots are also exempt from residential density restrictions of the comprehensive plan and the December 1, 1970, Tallahassee-Leon County Zoning Codes, as amended. They are not, however, exempt from the other requirements

and limitations of land development regulations implementing the local comprehensive plan.

This section of the Code, in effect, provides relief for those individuals who had created non-conforming subdivisions prior to the adoption of the Comprehensive Plan. However, there does exist many cases where lots have been created by recorded transfers of title since the adoption of the Comprehensive Plan as described above (improper subdivisions).

Improper Subdivisions Created After the Adoption of the Comprehensive Plan

Improper subdivisions are those that were created after the Comprehensive Plan went into effect. Presently, rectification of improper subdivisions created after October, 1990, has proven difficult and is rarely accomplished. It requires the filing of an application with the Leon County Department of Growth and Environmental Management, for the subdivision of the affected land area, regardless of its present ownership pattern. To obtain approval, the application must be consistent with the Comprehensive Plan and meet all applicable development standards, including: density limitations, minimum lot size, minimum yard setbacks, access standards, environmental protection regulations, including, protection of conservation and preservation features, etc.

There are many reasons that existing improper subdivisions are difficult to remedy to make consistent with current regulations. Often, improper subdivision of land occurs on lands classified as Rural on the Comprehensive Plan Land Use Map and that are zoned Rural. The minimum lot size in the Rural zoning district is 10 acres, as established by the Land Development Code. The Comprehensive Plan limits density to one dwelling unit per 10 acres of land. Unfortunately, many, if not most, of the improper subdivisions within the "Rural" area establish individual land holdings (not recognized as lots or parcels) of less than 10 acres. In meeting the requirements of the Code and Comprehensive Plan, it is not possible to maintain the same number of lots. The reduction in the number of lots that can be created usually deters the affected property owners from rectifying their improper subdivision. Other standards, such as having to ensure that every lot in a subdivision has legal access can sometimes impact the layout and number of lots that can be created in a subdivision accomplished pursuant to Code, and would also act as a deterrent to rectifying an improper subdivision. In addition to the regulatory hurdles, the costs involved with filing and producing a viable subdivision application, and more often than not, the inability for various land holders to agree to even make such an application, further contribute to the disinclination of the owners to rectify an improper subdivision.

Limited Partition Subdivisions

Staff is also providing an option for amending the regulations governing limited partition subdivisions in response to an issue raised by a citizen at the April 10, 2007 Board meeting. Limited partition subdivisions, governed by Section 10-1426 of the Land Development Code, are basically

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smaller subdivisions of less than ten lots; large lot subdivisions; or the subdivision of existing duplex, triplex, or quadraplex structures without platting or full-scale subdivision review.

Smaller lot limited partitions are the subdivision of an unrecorded residentially zoned lot or parcel on an existing public or private street, with legal access, into not more than ten single-family residential attached lots (maximum of ten dwelling units), provided that the density does not exceed the density that is allowed by the zoning district. Large lot limited partition subdivision are the division of any existing parcel outside of the urban services areas into new parcels that are at least 50 acres each in the Rural, Urban Fringe, or Lake Talquin Urban Fringe Districts or at least ten acres each in the Rural Community district.

Limited partition subdivisions must not require the creation of a new street and densities must be consistent with those required by the applicable zoning district. The limited partition process also may not be utilized if central water and sewer infrastructure extension is required. The Code also provides for a review process that allows the County Administrator or designee the ability to approve, approve with conditions, or deny the application within ten working days of receipt of a complete application. The county administrator or designee may also refer the application to the DRC for full review if site conditions or features warrant more in-depth evaluation. The DRC shall then make a recommendation at a regularly scheduled meeting.

Analysis:

Policy 2.1.9 Subdivision Alternatives

Section 163.3179 below of the Florida Statutes provides some limitations related to family heir subdivisions.

“Family homestead.--A local government may include in its comprehensive plan a provision allowing the use of a parcel of property solely as a homestead by an individual who is the grandparent, parent, stepparent, adopted parent, sibling, child, stepchild, adopted child, or grandchild of the person who conveyed the parcel to said individual, notwithstanding the density or intensity of use assigned to the parcel in the plan. Such a provision shall apply only once to any individual.”

Section 163.3194 of the Florida Statutes also provides that “all land development regulations enacted or amended shall be consistent with the adopted comprehensive plan, or element or portion thereof.... A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.”

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Section 163.3179, F.S. establishes that the Tallahassee-Leon County Comprehensive Plan cannot allow family homestead (family heir subdivisions) to be used repeatedly by the same individual. Further, Section 163.3193, F.S. requires that the Comprehensive Plan must establish allowable densities and that the implementing land development regulations must be consistent with these densities. Per the Statutes, the Tallahassee-Leon County Comprehensive Plan must include density provisions. Policy 2.1.9 of the Tallahassee-Leon County Comprehensive Plan establishes an alternate density for the Urban Fringe, Rural and Lake Talquin Recreation/Urban Fringe areas provided that the property has been in single ownership since February 1, 1990 or that the property owner wishes to subdivide his/her property for a family member.

The family heir provision is fairly common throughout the state and is authorized by the statute above. The non-family heir Policy 2.1.9 provision is however more unique because it, in effect, establishes an alternate density that to some degree lessens the effectiveness of the comprehensive planning program by allowing greater densities in land use categories otherwise planned for lower density development. This makes the Urban Services Area concept and planning for services and infrastructure through density regulation somewhat problematic. For instance, the installation of central sewer becomes problematic when insufficient densities or large lot barriers to expansion are created prohibiting cost feasible installation or retrofit. Theoretically, Policy 2.1.9 was developed to avoid a disproportionate impact on owners of "small" properties that may have been impacted by a decrease in allowable densities upon adoption of the Comprehensive Plan. The version of Policy 2.1.9 applicable to the City of Tallahassee limits this to parcels less than 25 acres in size, however, the County version does not.

Below are three alternatives that have been considered by staff in developing a response to the problems identified in relations to Policy 2.1.9 subdivisions:

Alternative A) Family heir: Removes four-acre minimum lot size requirement in existing platted unrecorded subdivisions. Allows property owners the use of both the family heir and non-family heir provisions. (Requires a Comprehensive Plan amendment).

Advantages

- Would require less land to be given or sold to family member by removing four acre minimum lot size.
- Allows people who have previously used the family heir 2.1.9 subdivision provision to use the non-family heir 2.1.9 provision on a separate parcel provided that it has not been subdivided and has been in the applicants ownership since 1990.

Disadvantages

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- Could result in incompatible lot sizes and possible complaints from neighboring property owners.
- Could result in the installation of additional septic tanks.

Alternative B) Non-family heir: Broadens applicability of non-family heir provision to include family trusts and family members but limits applicability to parcels 25 acres in size or less. Allows use of the provision again by the same property owner up to the maximum of six lots. Requires a Comprehensive Plan amendment.

Advantages

- Would allow properties that have been placed in trust to or deeded to family members to be subdivided and sold to non-related individuals up to the maximum of six lots.
- Limits applicability to parcels 25 acres in size or less therefore creating consistency with Comprehensive Plan's intent.
- Would allow property owners who have already used non-heir 2.1.9 to realize the full six-unit potential in cases where they didn't originally achieve six lots.

Disadvantages

- Could result in more subdivision in environmentally sensitive portions of the County.
- Could result in the installation of additional septic tanks.
- Makes planning for infrastructure through density regulation problematic.

Alternative C) Combination family and non-family heir: Combines Alternatives A and B above. Removes four-acre minimum lot size requirement in existing platted unrecorded subdivisions. Allows property owners the use of both the family heir and non-family heir provisions. Broadens applicability of non-family heir provision to include family trusts and family members but limits applicability to parcels 25 acres in size or less. Allows use of the provision again by the same property owner up to the maximum of six lots. Requires a Comprehensive Plan amendment. Requires a Comprehensive Plan amendment.

Advantages

- Would require less land to be given or sold to family member by removing the four-acre minimum lot size.
- Allows people who have previously used the family heir 2.1.9 subdivision provision to use the non-family heir 2.1.9 provision on a separate parcel provided that it has not been subdivided and has been in the applicants ownership since 1990.
- Would allow properties that have been placed in trust to or deeded to family members to

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be subdivided and sold to non-related individuals up to the maximum of six lots.

- Limits applicability to parcels 25 acres in size or less therefore creating consistency with Comprehensive Plan's intent.
- Would allow property owners who have already used non-heir 2.1.9 to realize the full six-unit potential in cases where they didn't originally achieve six lots.

Disadvantages

- Could result in incompatible lot sizes and possible complaints from neighboring property owners
- Could result in more subdivision in environmentally sensitive portions of the County.
- Could result in the installation of additional septic tanks.
- Makes planning for infrastructure through density regulation problematic

Alternative D) Family Heir; Sunsetting Non-Family Heir: Removes four-acre minimum lot size requirement in existing platted unrecorded subdivisions. Allows property owners the use of both the family heir and non-family heir provisions until 2010. Sunsets the Non-family heir Policy 2.1.9 provisions on February 1, 2010, or the end of the Comprehensive Plan's original planning time frame. (Requires a Comprehensive Plan amendment).

Advantages

- Would require less land to be given or sold to family member by removing four acre minimum lot size.
- Allows people who have previously used the family heir 2.1.9 subdivision provision to use the non-family heir 2.1.9 provision on a separate parcel provided that it has not been subdivided and has been in the applicants ownership since 1990 until 2010.
- May alleviate state agency concerns with the non-family heir 2.1.9 subdivision process.
- Would result in less subdivision within environmentally sensitive portions of the County.
- Would result in the installation of fewer septic tanks.
- Strengthens planning for infrastructure through solid density regulation

Disadvantages

- Could result in incompatible lot sizes and possible complaints from neighboring property owners.
- Could result in the installation of additional septic tanks in the interim until the non-family heir process sunsets.

In summary, the alternatives above present the following options: The first option (Alternative A) is to only change the family heir provisions by removing the four- acre minimum lot size. Alternative A removes some of the lot size barriers that may be prohibiting some families from creating homesteads while not further compromising the City/County comprehensive planning program by expanding the applicability of the non-family heir 2.1.9 subdivision provision. This option would also allow people who have previously used the family heir 2.1.9 subdivision provision to use the non-family heir 2.1.9 provision on a separate parcel provided that it has not been subdivided and has been in the applicants ownership since 1990. The second option (Alternative B) allows the use of non-heir Policy 2.1.9 subdivisions more than once and also broadens the definition of single ownership to include estates, trusts and other family members who might have inherited the property.

This change would greatly expand the use of non-family heir 2.1.9 subdivisions by allowing more to occur and by allowing more lots to be created in lower density areas. The third option (Alternative C) is a combination of both Alternatives A and B. Policy 2.1.9 alternatives A, B and C will all require Comprehensive Plan amendments. Alternative D accomplishes the same family heir 2.1.9 changes as does Alternative A, however, it contains a sunset provision for the non-family heir 2.1.9 process. This would allow for some new flexibility in using the family heir 2.1.9 process while also strengthening the County's land planning program by eliminating the non-family 2.1.9 process in the near future.

Improper Subdivision Alternatives

Below are five alternatives that have been considered by staff in developing a response to the problem of improper subdivisions:

Alternative E) Status Quo: Make no changes to the Land Development Code or Comprehensive Plan in relation to improper subdivisions.

Advantages

- Does not create an incentive for others to improperly subdivide land.
- Will not result in the creation of subdivisions that are inconsistent with the Comprehensive Plan or not in compliance with the Land Development Code.
- Creates an incentive for the affected land owners to resolve the matter internally, as opposed to the County interjecting between typically divided interests.

Disadvantages

- Many improperly divided properties could not be "properly" subdivided in a manner that would create enough lots to satisfy the needs of all of the property's divided ownership interests.

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Alternative F) Modify the Limited Partition Process: Allow improper subdivisions to be rectified through the limited partition process, where lots may be as small as one-half acre, but the aggregate density remains consistent with the Comprehensive Plan. This approach would not require an amendment to the Comprehensive Plan but require an amendment to the Land Development Code specifying that so long as applicable zoning district density limits are met, some individual lots created through the limited partition process could be smaller than presently allowed (for example, 3 acres in the urban fringe zoning district and 10 acres in the rural zoning district); perhaps as small as ½ acre. It would also be appropriate that any applicable regulation limit the applicability to correcting improper subdivision in existence as of a stipulated date, e.g., July 1, 2007, thus precluding someone from creating an improper subdivision and then use the amended limited partition process as a de facto method of accomplishing cluster development within the rural future land use category.

Advantages

- Will not result in the creation of subdivisions that are consistent with the Comprehensive Plan and in compliance with the Land Development Code. (Requires a Code amendment)
- Creates an incentive for the affected landowners to resolve the matter themselves, as opposed to the interjection of the County between typically divided interests.
- If limited to improper subdivisions created before a "date-certain," this change would not create an incentive for others to improperly subdivide land.

Disadvantages

- It is likely that a significant percentage of those improperly divided properties located outside the urban services area, particularly within the rural zoning district would still not contain sufficient land area to allow "proper" subdivision in a manner that would create enough lots to satisfy the needs of all of the property's divided ownership interests. Therefore, while this approach has some limited value, it would not likely represent a solution for a majority of the improper subdivisions.

Alternative G) Amnesty: Amend the Land Development Code to grant an "amnesty" to improper subdivisions. The Land Development Code could be amended so that Section 10-1452 would apply to all lots created by recorded transfers of title recorded on or before (for example) July 1, 2007, thus rectifying all existing improper subdivisions. (Would require Comprehensive Plan amendments)

Advantages

- Would resolve all improper subdivisions and allow property owners to obtain development permits for the affected properties.
- Provides an inclusive response (to all improperly subdivided properties).

Disadvantages

- Unless enabled by a related amendment to the Future Land Use Element and/or Future Land Use Map of the Comprehensive Plan, this would create a significant number of subdivisions, which are inconsistent with the density limitations (as well as other objectives and policies) of the Comprehensive Plan.
- Could subject the County to legal challenges for allowing development inconsistent with the Comprehensive Plan and in violation of Chapter 163, Florida Statutes, and challenges by adversely affected property owners, regarding substandard access conditions, incompatible land use, etc.
- May create an incentive for continued improper subdivision, even after the "cut-off" date, as some could consider this an example that the Code will be amended from time to time to grant amnesty to improper subdivisions.

Alternative H) Land Use Map Amendment: Amend the Comprehensive Plan (Future Land Use Map) so that "excessively dense" improper subdivisions, which would presently be inconsistent with the Plan, would become consistent with applicable density limitations. The Future Land Use Map could be amended to allow higher density development for either areas in which there is a large concentration of improper subdivisions, or on a specific case-by-case basis. It is possible that this approach would also require significant amendments to the text of the Comprehensive Plan, particularly if it would allow densities outside of the urban services area which would be inconsistent with the urban services area/growth management strategy presently embodied in the Plan.

Advantages

- Would enable land within the area affected by the amendments to be "properly subdivided" at significantly higher densities than could be achieved now. Providing this additional density removes perhaps the most significant current disincentive to rectifying improper subdivisions (i.e., it would allow the creation of enough lots to satisfy the needs of all of the property's divided ownership interests). [Still requires the affected property owners to subsequently proceed through the County's subdivision process]
- Would bolster the County against legal challenges for allowing development inconsistent with the Comprehensive Plan and in violation of Chapter 163, Florida Statutes.

Disadvantages:

- Such Comprehensive Plan amendments are very likely to be objected to by the State, particularly if applied on a widespread geographic basis, as opposed to small areas where existing densities presently exceed the limits prescribed by the Comprehensive Plan.

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- Infrastructure funding would be necessary in order to accommodate the density increases within the Comprehensive Plan.
- May create an incentive for continued improper subdivision, as some could consider this an example that the Comprehensive Plan will be amended from time to time to accommodate improper subdivisions with densities in excess of the Plan's limits.

I) Administrative procedure: Require all persons creating lots through the recording of transfers of title to obtain a Permitted Use Verification or similar document from the Department of Growth and Environmental Management. Persons creating lots through the recording of transfers of title or similar action, pursuant to the Clerk of Courts, could be required to obtain an advisory from the Department of Growth and Environmental Management, specific to their proposed "subdivision," prior to the effective date of the recording. This is intended to provide the recipient with information regarding the implications of recording the transfer but forgoing subdivision pursuant to the County's standards, as well as additional information concerning how to appropriately subdivide their land pursuant to these standards.

Advantages

- Would better forewarn affected parties regarding potential adverse implications resulting from improper subdivision and possibly eliminate future improper subdivisions issues.
- Could reduce requests for the County to intervene between separate and multiple interests involved in improper subdivisions.
- May encourage some affected parties to proceed through the County's subdivision process instead of creating improper subdivisions.

Disadvantages

- Could add time to recording process. This may be objectionable from the perspective of the Clerk of the Courts and from persons in haste to record.
- Could require a minimal fee for such documentation to be provided from the Department of Growth and Environmental Management (presently, a Permitted Use Verification certificate requires payment of a fee of \$202).

Recommended Alternatives

Staff first recommends Alternatives D, F and I. Alternative D allows for additional flexibility and hardship relief for families while sunsetting the non-family heir provisions in the year 2010. This alternative is more likely to be looked upon favorably by the Florida Department of Community Affairs and other state agencies. Alternative F allows improper subdivisions to be rectified through the limited partition process, where lots may be as small as one-half acre, but the aggregate density remains consistent with the Comprehensive Plan. Alternative I would establish an administrative procedure that would serve to prevent the creation of additional improper subdivisions in the future.

As a secondary alternative, staff is recommending the approval of Alternatives A, F and I. Alternative A will require a Comprehensive Plan amendment and review by applicable state agencies. This amendment could be initiated for the upcoming 2007-2 amendment cycle. The full text amendments to the Land Development Code and Comprehensive Plan necessary to implement these recommended alternatives are provided as Attachment # 1. Should the Board desire any of the other options provided, staff recommends that the Board consider changing the land use category to a higher density category as described in Alternative H. This would keep the comprehensive planning program somewhat intact and allow for better planning for infrastructure. For instance, Rural areas that have a predominance of lots that are less than 25 acres may be better considered for Urban Fringe or some other more dense category depending on the level of environmental sensitivity and the availability of urban services, consistent with the recommendations of the Infrastructure Phasing Report. These areas are shown on Attachment # 2 and are predominately located in areas that are environmentally sensitive and areas currently designated Urban Fringe. Since these subdivisions would for the most part be developed with on-site septic systems absent any formal subdivision review or adequate density allowances, changing the Land Use Map category could be more advantageous. Staff could research areas for potential change based on Board direction and bring forward an amendment in the upcoming 2007-2 amendment cycle.

Options:

1. Approve Alternatives D, F and I and authorize staff to prepare the necessary Land Development Code and Comprehensive Plan amendments.
2. Approve Alternative A, F, and I and authorize staff to prepare the necessary Land Development Code and Comprehensive Plan amendments.
3. Do not approve Alternative A, D, F or I and do not authorize staff to prepare the necessary Land Development Code and Comprehensive Plan amendments.
4. Board direction.

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Recommendation:

Option #1.

Attachments:

- #1 Land Development Code and Comprehensive Plan Amendments
- #2 Map of Potential Policy 2.1.9 Parcels Between 1 and 25 Acres

PA/VL/WT/ka

ALTERNATIVE A: FAMILY HEIR (RECOMMENDED)

Sec. 10-1427. Residential development pursuant to Comprehensive Plan Policy 2.1.9.

1. The following qualify for review as a Comprehensive Plan Policy 2.1.9. "Subdivision," which allows residential development at a maximum density of two units per acre for the first six dwelling units, whether subdivided or not, including existing dwelling units.

2. To qualify for use of Policy 2.1.9., the following conditions must be met:

(a) The parcel must be located in one or more of the following zoning districts:

- (i) Rural;
- (ii) Urban Fringe; or
- (iii) Lake Talquin Recreation/Urban Fringe; or
- (iv) Residential preservation overlay of one of the above only if outside the urban services area.

(b) This special policy has not previously been approved or applied to any other parcel in the applicant's ownership or control, except that the Non-Family Parcel Policy 2.1.9 may be used one time by applicants who have previously divided a separate parcel using the Family Parcel Policy 2.1.9 provision provided that said parcel meets the requirements of subsection (c) below for Non-Family Parcel Policy 2.1.9 subdivisions;

(c) The applicant held fee simple title to the parcel and in single ownership as of February 1, 1990, and has continuously retained fee simple title since that date, except for applicants covered by the Family Parcel Policy 2.1.9 as defined in section 10-1427, 3.(b) of this chapter; and,

(d) All lots proposed to be created utilizing the Policy 2. 1.9 process shall meet all concurrency requirements.

3. Policy 2.1.9 "Subdivisions" shall be permitted only in the following categories:

(a) For metes and bounds property: Residential development is only allowed to a maximum density of two units per acre, whether previously subdivided or not, for the first six dwelling units, including any existing units.

(b) For metes and bounds property under the "Family Parcel Provision," residential development is applicable to property owners who cannot use the provision in 3(a), above, due to date of ownership or acquisition, or because an adequate number of lots would not result for family members. The property owner may convey a portion of the property to each of their relatives, as defined by Florida Statutes (Section 163.3179), notwithstanding the density or intensity applicable to the subject parcel in the zoning district:(a) if the subdivision does not create lots which are less than one-half acre in size; (b) such parcel has not been previously created through a Policy 2.1.9 non-heir provision;

(c) said "Family Parcel" provision has not been used previously by the property owner;
 (d) the proposed subdivision meets all other applicable provisions of subsection 2. (a) and (d) of this section, above.

(c) For previously platted unrecorded subdivisions: Residential development is permitted if the following criteria are met: (a) ~~the parcel must be a minimum of four acres; where feasible the newly created subdivision shall meet the overall allowable density within the applicable Land Use category through clustering or lot size variability~~ (b) ~~the parcel must lie outside the urban service area as defined in the comprehensive plan;~~ (e) (b) the density on the resulting parcels may not exceed one dwelling unit per two acres, including existing dwelling units, up to a maximum division of ~~five~~ six lots; (d) (c) the resulting parcels shall be compatible and consistent with the majority of lots within the subdivision with a minimum lot size of one-half acre but not smaller than the smallest lot in the subdivision; (e) (d) the resulting parcels shall meet concurrency requirements; and, (f) (e) and the parcel must meet all applicable items in subsection 2, above.

(d) For property that abuts a canopy road with existing physical access, Policy 2.1.9 may be utilized where no protected tree and/or vegetation removal is required, and which meets the provisions of subsection 2, shall qualify under this section. However, where the subject property abuts a canopy road and there is no existing physical access, full Type B site and development plan review shall be required.

(Ord. No. 96-02, § 13, 2-17-96)

ALTERNATIVE A: REQUIRED COMPREHENSIVE PLAN AMENDMENT (RECOMMENDED)

Policy 2.1.9: [L] (Leon County) (Rev. Effective 4/18/02)

To avoid a disproportionate impact on owners of small parcels of property, each parcel of property in single ownership as of February 1, 1990, in the Urban Fringe, and Rural and Lake Talquin Recreation/Urban Fringe areas may be developed at a maximum density of two units per acre, for the first six dwelling units on such parcel, including existing dwelling units. Property owners who are not able to use the above provision because of date of ownership/acquisition, or if the provision would not allow for an adequate number of lots for a property owner who wishes to subdivide a parcel for family members, may convey a portion of that property to their heirs (as defined by Chapter 163.3179, F.S.) for the sole purpose as a homestead, notwithstanding the density or intensity of use assigned to the parcel in the plan.

Either provision may apply only once to any individual, ~~and may not be used in combination-~~ except that, the Non-Family Parcel provision above may be used one time by applicants who have previously divided a separate parcel using the Family Parcel provision above provided that said parcel meets the requirements of subsection (c) below for Non-Family Parcel Policy 2.1.9 subdivisions; Any parcel created through use of the non-heir provision of this policy shall not be further divided using the heir provision. Neither provision may be used to create a lot which is smaller than 1/2 acre in size.

ALTERNATIVE B: NON-FAMILY HEIR 2.1.9

Sec. 10-1427. Residential development pursuant to Comprehensive Plan Policy 2.1.9.

1. The following qualify for review as a Comprehensive Plan Policy 2.1.9.
"Subdivision," which allows residential development at a maximum density of two units per acre for the first six dwelling units, whether subdivided or not, including existing dwelling units.
2. To qualify for use of Policy 2.1.9., the following conditions must be met:
 - (a) The parcel must be located in one or more of the following zoning districts:
 - (i) Rural;
 - (ii) Urban Fringe; or
 - (v) Lake Talquin Recreation/Urban Fringe; or
 - (vi) Residential preservation overlay of one of the above only if outside the urban services area.
 - (b) For the "Family Parcel Provision", this special policy has not previously been approved or applied to any other parcel in the applicant's ownership or control;
 - (c) The applicant family members, or family trust held fee simple title to the parcel ~~and in single ownership~~ as of February 1, 1990, and has continuously retained fee simple title since that date, except for applicants covered by the Family Parcel Policy 2.1.9 as defined in section 10-1427, 3.(b) of this chapter; and,
 - (d) All lots proposed to be created utilizing the Policy 2. 1.9 process shall meet all concurrency requirements.
 - (e) For the "Non-Family Parcel Provision", the parcel must be less than 25 acres in size.
3. Policy 2.1.9 "Subdivisions" shall be permitted only in the following categories:
 - (a) For metes and bounds property: Residential development is only allowed to a maximum density of two units per acre, whether previously subdivided or not, for the first six dwelling units, including any existing units.
 - (b) For metes and bounds property under the "Family Parcel Provision," residential development is applicable to property owners who cannot use the provision in 3(a), above, due to date of ownership or acquisition, or because an adequate number of lots would not result for family members. The property owner may convey a portion of the property to each of their relatives, as defined by Florida Statutes (Section 163.3179), notwithstanding the density or intensity applicable to the subject parcel in the zoning district:(a) if the subdivision does not create lots which are less than one-half acre in size;
 - (b) such parcel has not been previously created through a Policy 2.1.9 non-heir provision;

- (c) said "Family Parcel" provision has not been used previously by the property owner;
- (d) the proposed subdivision meets all other applicable provisions of subsection 2.

(c) For previously platted unrecorded subdivisions: Residential development is permitted if the following criteria are met: (a) the parcel must be a minimum of four acres; (b) the parcel must lie outside the urban service area as defined in the comprehensive plan; (c) the density on the resulting parcels may not exceed one dwelling unit per two acres, including existing dwelling units, up to a maximum division of five lots; (d) the resulting parcels shall be compatible and consistent with the majority of lots within the; (e) the resulting parcels shall meet concurrency requirements; and, (f) and the parcel must meet all applicable items in subsection 2, above.

(d) For property that abuts a canopy road with existing physical access, Policy 2.1.9 may be utilized where no protected tree and/or vegetation removal is required, and which meets the provisions of subsection 2, shall qualify under this section. However, where the subject property abuts a canopy road and there is no existing physical access, full Type B site and development plan review shall be required.

(Ord. No. 96-02, § 13, 2-17-96)

ALTERNATIVE B: REQUIRED COMPREHENSIVE PLAN AMENDMENT

Policy 2.1.9: [L] (Leon County) (Rev. Effective 4/18/02)

To avoid a disproportionate impact on owners of small parcels of property 25 acres or less, each parcel of property in single ownership, family trust or single family ownership as of February 1, 1990, in the Urban Fringe, and Rural and Lake Talquin Recreation/Urban Fringe areas may be developed at a maximum density of two units per acre, for the first six dwelling units on such parcel, including existing dwelling units. Property owners who are not able to use the above provision because of date of ownership/acquisition, or if the provision would not allow for an adequate number of lots for a property owner who wishes to subdivide a parcel for family members, may convey a portion of that property to their heirs (as defined by Chapter 163.3179, F.S.) for the sole purpose as a homestead, notwithstanding the density or intensity of use assigned to the parcel in the plan.

The Family Parcel ~~Either provision may apply only once to any individual, family or family trust, and may not be used in combination. Any parcel created through use of the non-heir provision of this policy shall not be further divided using the heir provision.~~ The Non-Family Parcel provision may be invoked for up to six dwelling units. This may be accomplished through multiple applications up to the six unit maximum. Neither provision may be used to create a lot which is smaller than 1/2 acre in size.

ALTERNATIVE C: COMBINATION FAMILY AND NON-FAMILY HIER

Sec. 10-1427. Residential development pursuant to Comprehensive Plan Policy 2.1.9.

1. The following qualify for review as a Comprehensive Plan Policy 2.1.9.
"Subdivision," which allows residential development at a maximum density of two units per acre for the first six dwelling units, whether subdivided or not, including existing dwelling units.
2. To qualify for use of Policy 2.1.9., the following conditions must be met:
 - (a) The parcel must be located in one or more of the following zoning districts:
 - (i) Rural;
 - (ii) Urban Fringe; or
 - (vii) Lake Talquin Recreation/Urban Fringe; or
 - (viii) Residential preservation overlay of one of the above only if outside the urban services area.
 - (b) For the "Family Parcel Provision", this special policy has not previously been approved or applied to any other parcel in the applicant's ownership or control. The Non-Family Parcel Policy 2.1.9 may be used one time by applicants who have previously divided a separate parcel using the Family Parcel Policy 2.1.9 provision provided that said parcel meets the requirements of subsection (c) below for Non-Family Parcel Policy 2.1.9 subdivisions;
 - (c) The applicant family members, or family trust held fee simple title to the parcel ~~and in single ownership~~ as of February 1, 1990, and has continuously retained fee simple title since that date, except for applicants covered by the Family Parcel Policy 2.1.9 as defined in section 10-1427, 3.(b) of this chapter; and,
 - (d) All lots proposed to be created utilizing the Policy 2. 1.9 process shall meet all concurrency requirements.
 - (e) For the "Non-Family Parcel Provision", the parcel must be less than 25 acres in size.
3. Policy 2.1.9 "Subdivisions" shall be permitted only in the following categories:
 - (a) For metes and bounds property: Residential development is only allowed to a maximum density of two units per acre, whether previously subdivided or not, for the first six dwelling units, including any existing units.
 - (b) For metes and bounds property under the "Family Parcel Provision," residential development is applicable to property owners who cannot use the provision in 3(a), above, due to date of ownership or acquisition, or because an adequate number of lots would not result for family members. The property owner may convey a portion of the

property to each of their relatives, as defined by Florida Statutes (Section 163.3179), notwithstanding the density or intensity applicable to the subject parcel in the zoning district: (a) if the subdivision does not create lots which are less than one-half acre in size; (b) such parcel has not been previously created through a Policy 2.1.9 non-heir provision; (c) said "Family Parcel" provision has not been used previously by the property owner; (d) the proposed subdivision meets all other applicable provisions of subsection 2. (a) and (d) of this section, above.

(c) For previously platted unrecorded subdivisions: Residential development is permitted if the following criteria are met: (a) ~~the parcel must be a minimum of four acres; where feasible the newly created subdivision shall meet the overall allowable density within the applicable Land Use category through clustering or lot size variability~~ (b) ~~the parcel must lie outside the urban service area as defined in the comprehensive plan;~~ (e) (b) the density on the resulting parcels may not exceed one dwelling unit per two acres, including existing dwelling units, up to a maximum division of ~~five-six~~ lots; (d) (c) the resulting parcels shall be compatible and consistent with the majority of lots within the subdivision with a minimum lot size of one-half acre but not smaller than the smallest lot in the subdivision; (e) (d) the resulting parcels shall meet concurrency requirements; and, (f) (e) and the parcel must meet all applicable items in subsection 2, above.

(d) For property that abuts a canopy road with existing physical access, Policy 2.1.9 may be utilized where no protected tree and/or vegetation removal is required, and which meets the provisions of subsection 2, shall qualify under this section. However, where the subject property abuts a canopy road and there is no existing physical access, full Type B site and development plan review shall be required.

(Ord. No. 96-02, § 13, 2-17-96)

ALTERNATIVE C: REQUIRED COMPREHENSIVE PLAN AMENDMENT

Policy 2.1.9: [L] (Leon County) (Rev. Effective 4/18/02)

To avoid a disproportionate impact on owners of small parcels of property 25 acres or less, each parcel of property in single ownership, family trust or single family ownership as of February 1, 1990, in the Urban Fringe, and Rural and Lake Talquin Recreation/Urban Fringe areas may be developed at a maximum density of two units per acre, for the first six dwelling units on such parcel, including existing dwelling units. Property owners who are not able to use the above provision because of date of ownership/acquisition, or if the provision would not allow for an adequate number of lots for a property owner who wishes to subdivide a parcel for family members, may convey a portion of that property to their heirs (as defined by Chapter 163.3179, F.S.) for the sole purpose as a homestead, notwithstanding the density or intensity of use assigned to the parcel in the plan.

The Family Parcel ~~Either~~ provision may apply only once to any individual, family trust or single family, except that, the Non-Family Parcel provision above may be used one time by applicants who have previously divided a separate parcel using the Family Parcel provision above provided that said parcel meets the requirements of subsection (c) below for Non-Family Parcel Policy 2.1.9 subdivisions; and may not be used in combination .

~~Any parcel created through use of the non-heir provision of this policy shall not be further divided using the heir provision. The Non-Family Parcel provision may be invoked for up to six dwelling units. This may be accomplished through multiple applications up to the six unit maximum.~~ Neither provision may be used to create a lot which is smaller than 1/2 acre in size.

ALTERNATIVE D FAMILY HEIR; SUNSETTING NON-FAMILY

Sec. 10-1427. Residential development pursuant to Comprehensive Plan Policy 2.1.9.

1. The following qualify for review as a Comprehensive Plan Policy 2.1.9. "Subdivision," which allows residential development at a maximum density of two units per acre for the first six dwelling units, whether subdivided or not, including existing dwelling units.
2. To qualify for use of Policy 2.1.9., the following conditions must be met:
 - (a) The parcel must be located in one or more of the following zoning districts:
 - (i) Rural;
 - (ii) Urban Fringe; or
 - (ix) Lake Talquin Recreation/Urban Fringe; or
 - (x) Residential preservation overlay of one of the above only if outside the urban services area.
 - (b) This special policy has not previously been approved or applied to any other parcel in the applicant's ownership or control, except that the Non-Family Parcel Policy 2.1.9 may be used one time by applicants who have previously divided a separate parcel using the Family Parcel Policy 2.1.9 provision provided that said parcel meets the requirements of subsection (c) below for Non-Family Parcel Policy 2.1.9 subdivisions. The Non-Family Parcel 2.1.9 subdivision process shall terminate on February 1, 2010 at 11:59 PM. All subdivisions, except for Family Parcel Policy 2.1.9 subdivisions, created subsequent to that date shall be consistent with the adopted Tallahassee-Leon County Comprehensive Plan and the requirements of this Code.
 - (c) The applicant held fee simple title to the parcel and in single ownership as of February 1, 1990, and has continuously retained fee simple title since that date, except for applicants covered by the Family Parcel Policy 2.1.9 as defined in section 10-1427, 3.(b) of this chapter; and,
 - (d) All lots proposed to be created utilizing the Policy 2.1.9 process shall meet all concurrency requirements.
3. Policy 2.1.9 "Subdivisions" shall be permitted only in the following categories:

(a) For metes and bounds property: Residential development is only allowed to a maximum density of two units per acre, whether previously subdivided or not, for the first six dwelling units, including any existing units.

(b) For metes and bounds property under the "Family Parcel Provision," residential development is applicable to property owners who cannot use the provision in 3(a), above, due to date of ownership or acquisition, or because an adequate number of lots would not result for family members. The property owner may convey a portion of the property to each of their relatives, as defined by Florida Statutes (Section 163.3179), notwithstanding the density or intensity applicable to the subject parcel in the zoning district: (a) if the subdivision does not create lots which are less than one-half acre in size; (b) such parcel has not been previously created through a Policy 2.1.9 non-heir provision; (c) said "Family Parcel" provision has not been used previously by the property owner; (d) the proposed subdivision meets all other applicable provisions of subsection 2. (a) and (d) of this section, above.

(c) For previously platted unrecorded subdivisions: Residential development is permitted if the following criteria are met: (a) the parcel must be a minimum of four acres; where feasible the newly created subdivision shall meet the overall allowable density within the applicable Land Use category through clustering or lot size variability ~~(b) the parcel must lie outside the urban service area as defined in the comprehensive plan;~~ (b) the density on the resulting parcels may not exceed one dwelling unit per two acres, including existing dwelling units, up to a maximum division of five-six lots; ~~(c) the resulting parcels shall be compatible and consistent with the majority of lots within the subdivision with a minimum lot size of one-half acre but not smaller than the smallest lot in the subdivision;~~ (d) the resulting parcels shall meet concurrency requirements; and, ~~(e) and the parcel must meet all applicable items in subsection 2, above.~~

(d) For property that abuts a canopy road with existing physical access, Policy 2.1.9 may be utilized where no protected tree and/or vegetation removal is required, and which meets the provisions of subsection 2, shall qualify under this section. However, where the subject property abuts a canopy road and there is no existing physical access, full Type B site and development plan review shall be required.
(Ord. No. 96-02, § 13, 2-17-96)

ALTERNATIVE D: REQUIRED COMPREHENSIVE PLAN AMENDMENT

Policy 2.1.9: [L] (Leon County) (Rev. Effective 4/18/02)

To avoid a disproportionate impact on owners of small parcels of property, each parcel of property in single ownership as of February 1, 1990, in the Urban Fringe, and Rural and Lake Talquin Recreation/Urban Fringe areas may be developed at a maximum density of two units per acre, for the first six dwelling units on such parcel, including existing dwelling units. Property owners who are not able to use the above provision because of date of ownership/acquisition, or if the provision would not allow for an adequate number of lots for a property owner who wishes to subdivide a parcel for family members, may convey a portion of that property to their heirs (as defined by Chapter 163.3179, F.S.)

for the sole purpose as a homestead, notwithstanding the density or intensity of use assigned to the parcel in the plan. The Non-Family Parcel 2.1.9 subdivision process described above shall terminate on February 1, 2010 at 11:59 PM. All subdivisions, except for Family Parcel Policy 2.1.9 subdivisions, created subsequent to that date shall be consistent with the adopted Tallahassee-Leon County Comprehensive Plan and the requirements of this Code.

~~Either provision may apply only once to any individual, and may not be used in combination- except that, the Non-Family Parcel provision above may be used one time by applicants who have previously divided a separate parcel using the Family Parcel provision above provided that said parcel meets the requirements of subsection (c) below for Non-Family Parcel Policy 2.1.9 subdivisions; Any parcel created through use of the non-heir provision of this policy shall not be further divided using the heir provision.~~ Neither provision may be used to create a lot which is smaller than 1/2 acre in size.

ALTERNATIVE F: MODIFIED LIMITED PARTITIONS (RECOMMENDED)

Sec. 10-1426. Limited partitions.

(1) The following shall qualify for review as a limited partition subdivision:

- (a) (i) A subdivision of an unrecorded residentially zoned lot or parcel on an existing public or private street, with legal access, into not more than ten single-family residential attached lots(maximum of ten dwelling units), provided that the density does not exceed the density that is allowed by the zoning district. Further, no lot created under this section within the urban service area, except for a one into two lot division, shall have new direct driveway access to a major or minor arterial or major collector roadway;
- (ii) The subdivision of existing duplex or triplex or quadraplex structures provided that the resulting subdivided units are certified to be in compliance with applicable zoning, subdivision and building codes. Compliance with applicable building codes shall be so certified by a registered professional, and such compliance subject to verification by the chief building official; (iii) A division of an unrecorded non residentially zoned lot or parcel of property into not more than ten lots, provided the division meets the design criteria of Division 5 of Article XI. When determined by the county administrator or designee, site and development plan review and approval may be processed concurrently if determined to be a Type A site and development plan; or, (iv) A division of any existing parcel outside of the urban services areas into parcels with a minimum size of 50 acres each in the Rural, Urban Fringe, or Lake Talquin Urban Fringe Districts or a minimum size of ten acres each in the rural community district. Subdivisions created under this provision shall be exempt from subsection (b)(iii) of this section; or, (v) To allow the division of land previously divided into metes and bounds lots through deeds recorded in the records of the Clerk of Courts, but not subdivided pursuant to Article XI into not more than ten lots for the purpose of allowing one residential unit on each lot; provided that deeds for the metes and bounds lots were recorded after October 31, 1990, at 11:59 p.m. but prior to XXXX, 2007; and provided that the overall density of the

limited partition subdivision is consistent with the applicable Tallahassee-Leon County Comprehensive Plan Land Use Map category. Any lots so created shall not be required to meet the minimum lot size other wise required by the applicable zoning district standards, but shall at a minimum, be one-half acre unless served by central sewer utilities

(b) (i) The division authorized pursuant to subsections (1)(a) of this section shall not require the creation of a new street, as defined in section 10-1 of this Code, to provide legal access to any subdivided lot created pursuant to this section; and (ii) No division created pursuant to subsection (1)(a) of this section will result in a requirement for the extension of water and sewer mains to the site; extensions of water and sewer service within the development are permitted; and, (iii) The approval of a limited partition subdivision shall not be permitted where any portion of the subject property has been previously involved in any subdivision pursuant to this section.

(2) Land use and project determination: Prior to submittal of an application, the applicant shall first obtain a permitted use verification certificate (PUV) from the division of development services which verifies that the development qualifies for review as a limited partition subdivision, based on criteria in subsection 10-1426(1).

(3) The applicant shall make application on appropriate forms provided by the county administrator or designee for the review of limited partitions.

(4) A complete application shall include the following:

(a) An eight and one-half by 14-inch document acceptable to be recorded in the Official Records of Leon County, which shall include:

1. Boundary survey of the parcel, and a separate sketch plan showing boundaries of the proposed individual lots and legal descriptions of the overall parent tract and individual lots;
2. Signature and seal of surveyor who prepared said boundary survey;
3. Existing structures and parking area(s) on the parcel to be subdivided;
4. Date of preparation;
5. Total acreage of the parcel to be subdivided;
6. Lot and block numbers, if applicable;
7. All easements on the property to be subdivided and each abutting street;
8. A statement on the face of the plan stating that any further subdivision of the lot or lots shall be subject to the platting requirements as specified in section 10-1428, site and development plans, as applicable, of these regulations; and
9. Scale of plan, both written and graphic.

(b) Supplemental information, which shall, upon the request of the growth and environmental management director or designee, include the following:

1. A vicinity map which depicts the location of the proposed subdivision in relation to adjacent streets and properties;
2. The 100-year flood frequency hazard area or a notation if not applicable; and
3. The method by which utilities including, but not limited to, water, sewer, electric, telephone, and cablevision will be provided to the subdivision. All underground utilities will be constructed prior to placement of final roadway surface.

- (c) A completed application form.
- (d) A certificate of concurrency.
- (e) Payment of applicable fee.
- (f) Pro forma documents which set forth any proposed conservation and preservation easements as may be required by this section.

(5) Procedure:

(a) Application: The applicant shall submit the required subdivision application to the director of the growth and environmental management department or designee.

(b) Determination of completeness:

1. Within ten working days after receipt of the application for a limited partition, the county administrator or designee shall determine whether the application contains all required information at the required level of detail; and shall advise the applicant of all areas of deficiency. This notification shall specify the additional information and level of detail required in order to meet the requirements of this section.

2. In the event that an applicant fails to submit the required additional information within 15 calendar days of the date of the notice of deficiency, the county administrator or designee shall consider the application to be withdrawn. The county administrator or designee may grant extensions of up to 30 days at the request of the applicant; provided any such request for an extension is received prior to the expiration of the relevant time period.

3. Upon a determination of completeness, the county administrator or designee shall approve, approve with conditions, or deny the application within ten working days of receipt of a complete application and shall so notify the applicant in writing. The county administrator or designee may also refer the application to the DRC for full review if site conditions or features warrant more in-depth evaluation. The DRC shall then make a recommendation at a regularly scheduled meeting. The referral of an application to the DRC shall stay the time for decision by the county administrator or designee.

(c) The determination of the county administrator or designee will become final 15 calendar days after it is rendered unless a person who qualifies as a party as defined in Article XI of Chapter 10 at Division 9 of this Code files a notice of intent to file a petition for formal proceedings together with the filing fee within this time period, and subsequently files within 30 calendar days after the decision is rendered, the petition for formal proceedings before a hearing officer. Failure to file is jurisdictional and will result in a waiver of the hearing. Appeals heard by a hearing officer will be conducted in accordance with the procedures outlined in section 10-1485. Appeals of the hearing officer's decision shall be reviewable by the circuit court.

(6) Upon approval of the limited partition, the applicant shall provide the county administrator or designee with the following:

- (a) One original eight and one-half by 14-inch copy of the plan with appropriate signatures, which also depicts any revisions which have been made during the course of the review;
- (b) A metes and bounds description of each lot in the approved limited partition subdivision; and,
- (c) The required recording fee.

(7) Any plan approved under this section shall be recorded in the Office of the Clerk of the Circuit Court of Leon County by the department upon the submittal of the approved plan and recording fee by the applicant. If the applicant fails to submit either the approved plan with the appropriate recording fees within 30 calendar days following final plan approval, said approval shall be deemed to have been revoked and expired.

(8) In deciding whether to approve, approve with conditions, or deny a limited partition, the director of growth and environmental management or designee shall consider:

(a) Whether all the design standards and requirements set forth in this chapter have been met;

(b) Whether all the zoning standards and requirements have been met; and

(c) Whether all the requirements of other applicable regulations or ordinances which impose specific requirements on limited partitions have been met, including section 10-346 of this chapter.

(Ord. No. 96-02, § 13, 2-17-96; Ord. No. 97-10, § 3, 6-10-97; Ord. No. 99-15, § 31, 5-25-99; Ord. No. 03-36, § 3(Exh. A), 11-25-03; Ord. No. 06-10, § 28, 4-11-06)

ALTERNATIVE G: AMNESTY

Sec. 10-1452. Prior improperly subdivided parcels.

In addition to the vested rights provided for in section 10-1451, and other provisions of this article notwithstanding, all single-family lots created by recorded transfers of title recorded on or before ~~October 31, 1990~~, XXXX, 2007 at 11:59 p.m., shall be deemed nonconforming within the meaning of the comprehensive plan and thus shall be excepted from the requirements for subdivision review as set forth in this article. Such single-family lots shall be excepted from the residential density limitations imposed by the comprehensive plan. These lots shall also be exempt from residential density restrictions of the comprehensive plan and the December 1, 1970, Tallahassee-Leon County Zoning Codes, as amended. Nothing herein shall exempt these lots from the other requirements and limitations of land development regulations implementing the local comprehensive plan.

(Ord. No. 92-9, § 1(18-4-2), 3-10-92)

Note: XXXX above represents the date of the adoption of the amending ordinance.

